1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 WESTERN DISTRICT OF WASHINGTON AT TACOMA 10 JAMES EDWARD CURTIS, 11 Case No. C08-5109 FDB/KLS Plaintiff, 12 ORDER DENYING MOTION FOR v. 13 ORDER REVOKING COURT ORDER TERRY J. BENDA, et al., AND ISSUANCE OF ORDER ENTER 14 DEFAULT JUDGMENT AS MOOT Defendants. 15 16 17 Before the Court is Plaintiff's Motion for Order Revoking Court Order and Issuance of Order 18 Entering Default Judgment. Dkt. # 36. Plaintiff requests that the Court revoke its service order 19 directing service of the amended complaint on Defendant Terry J. Benda and enter a default judgment 20 against Mr. Benda. Id. Plaintiff alleges that Mr. Benda engaged in fraud and misrepresentation in 21 avoiding service by the U.S. Marshal. *Id.* Defendants oppose the motion. Dkt. # 39. 22 On April 6, 2009, a notice of appearance and waiver of service was filed on behalf of Terry J. 23 Benda by the Attorney General. Dkt. # 38. As Mr. Benda has waived service in this matter, the issues 24 raised in Plaintiff's motion are now moot. Pursuant to Fed.R.Civ.P. 12(a), Defendant Benda has until 25 May 18, 2009, to submit his answer. 26 27 28 ORDER - 1

Accordingly, it is **ORDERED** that Plaintiff's motion (Dkt. # 36) shall be **DENIED** as moot. The Clerk of Court is directed to send a copy of this Order to Plaintiff and to counsel for Defendants. DATED this 24th day of April, 2009. United States Magistrate Judge

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